

# **Minutes of a Regular Meeting Town of Los Altos Hills PLANNING COMMISSION**

APPROVED 8/02/2007

THURSDAY, June 28, 2007, 7:00 p.m.  
Council Chambers, 26379 Fremont Road  
cc: Cassettes (2) #7-07

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## **1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian

Staff: Debbie Pedro, Planning Director; Brian Froelich, Associate Planner; Nicole Horvitz, Assistant Planner; Leslie Hopper, Contract Planner; Victoria Ortland, Planning Secretary

## **2. PRESENTATIONS FROM THE FLOOR-none**

PASSED BY CONSENSUS: To limit applicant comment time to 10 minutes and limit public comment time to 3 minutes.

## **3. PUBLIC HEARINGS**

- 3.1 LANDS OF SHIMMON, 24301 Elise Court, File #78-07-ZP-SD; A request for a Site Development Permit for landscape and hardscape improvements and exception to the Town's Grading Policy for retaining walls and decks. CEQA Review: Categorical Exemption per CEQA Guidelines Section 15303 (a) and (e) (staff-Leslie Hopper).

Ex Parte Contacts Policy Disclosure:

Chairman Collins and Commissioners Carey and Cottrell stated that they had met with the applicant.

Commissioner Harpootlian disclosed that he had met with the construction manager, David Dearden.

Leslie Hopper, Contract Planner, presented the staff report stating that retaining walls and decks had been built without building permits or the benefit of Town plan check or building inspection. The retaining wall construction did not comply with the Town's grading ordinance and an exception to the grading policy would be necessary to allow the walls to remain. In order to comply with the MDA for the site, 1,317 square feet of development would need to be removed; including the fire pit, solar array for the pool, the lower deck and some deck area near the second unit. One retaining wall and the solar array for the pool encroach into the conservation easement.

The site development ordinance states that ten times the application fee and three times the permit fee is to be charged for work done without permit.

Commissioner Carey asked for clarification on the potential amount of the increased fees.

Chairman Collins asked how staff had arrived at the estimated cost of construction and if the Planning Commission had the authority to request more fees.

Staff replied that \$400 per linear foot for the retaining walls had been used to calculate the estimated cost of construction (\$180,000 for the walls) and that the municipal code must be followed in regards to penalty fees.

Commissioner Carey asked if it could be determined that the new retaining walls had been engineered adequately.

Leslie Hopper stated that the walls had been fully engineered and inspected by a structural engineer, which can be documented. The Town building official would also require certification from an independent engineer.

Ed Shimmon, applicant, explained that the entire project had not been properly planned from the outset and he had encountered challenges as it progressed. After installation of the pool, the retaining walls in that area of the property failed and needed to be replaced. Other retaining walls on the site, some built of wood, were leaning and created a danger to the house. Engineered plans were developed and retaining walls were replaced in the same general locations. There was a geotechnical report for the property. The property is visible to only one residence. Mr. Shimmon said he was willing to comply with the decision of the Planning Commission concerning his application.

Chairman Collins asked for clarification on the height and location of the replaced retaining walls to determine if any walls had been significantly changed.

Leslie Hopper, showed a slide illustrating the locations of the original and new retaining walls and explained that at the time she photographed the original retaining walls during a site visit, some were in such poor shape that she did not feel safe walking near the area.

Ed Shimmon explained overall differences in the original retaining walls and the replacement walls.

Leslie Hopper confirmed the new heights and locations of the retaining walls.

Chairman Collins did not see anything critically wrong with the retaining walls but did see the problem with the process followed in the construction.

#### OPENED PUBLIC HEARING

Greg Malley, Elise Court, has a direct view of the property and feels the house is a positive contribution to the neighborhood. He has no issue with the retaining walls.

Sandy Humphries, Environmental Design Committee, requested the conditions of approval be amended to address three issues: that the saltwater pool be emptied only into the sanitary sewer system and not into the storm drain; the bamboo on the site be contained and not grow out of control; and the pool equipment shed have a noise buffer installed on the open side.

Debbie Pedro, Planning Director, explained that all pools are required to be drained into the sanitary sewer system.

David Dearden, Construction Manager for the project, explained that the pool had been emptied twice recently and pumped into the sanitary sewer main.

Ed Shimon explained the construction of the pool equipment enclosure and the sound mitigation installed.

#### CLOSED PUBLIC HEARING

Commissioner Clow thought the retaining walls were the correct type of walls for the site and supported leaving the walls, but felt the applicant should have worked with the Town before construction. He felt no precedent was being set by allowing the walls to remain.

Commissioner Carey was concerned about setting a precedent for allowing construction to remain after being built without permits. He thought the walls were similar to the original walls and should be allowed to stay. He wanted terracing to be considered for some of the walls to make them less imposing.

Commissioner Cottrell felt there was an issue of precedent but felt the walls should not be removed. He wished a higher fee could be allowed to charge more to the applicant and the contractor for not obtaining permits. He supported leaving the walls as built with added landscaping and terracing to make them appear less steep.

Commissioner Harpootlian felt that the appearance of an engineered retaining wall has a different architectural look than a wood or block wall. He thought the strong visual look of some of the retaining walls could be mitigated with terracing.

Chairman Collins had concerns about the precedent of allowing structures to remain without benefit of using the Town's building or engineering process. She would support the walls as built but wants a harsher fee to discourage this type of case in the future.

**MOTION SECONDED AND PASSED BY THE FOLLOWING ROLL CALL VOTE:** Motion by Commissioner Cottrell and seconded by Commissioner Carey to approve the retaining walls as built provided the applicant work with staff to add walls for terracing and landscaping on the east side and west side to reduce the visual impact. In addition, staff will determine the fees and charge the maximum possible.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian  
NOES: none

The approval is subject to a 22 day appeal period.

Commissioner Harpootlian felt that the solar credit should be allowed and the solar array could potentially be put on the roof, the artificial turf should be counted at 10 percent and the developed areas reduced to meet the MDA for the property.

Commissioner Cottrell agreed that the solar array for the pool heater could be installed on the roof and the property should be brought into conformance with the MDA available.

Commissioner Carey felt the site's MDA should be met. The solar array near the pool was in an unobtrusive location and should be allowed to remain.

Commissioner Clow agreed that the solar array by the pool should remain in place and the solar bonus allowed. The applicant should work with staff to reduce the lot coverage to meet the MDA for the property and stay out of the conservation easement.

Chairman Collins supported the location of the solar array for the pool and the small encroachment into the conservation easement. She would allow the solar credit for the roof mounted panels and have the applicant work with staff to make the site meet the MDA numbers.

**MOTION SECONDED AND PASSED BY THE FOLLOWING ROLL CALL VOTE:** Motion by Commissioner Cottrell and seconded by Commissioner Clow to require the applicant to conform to the Town's MDA requirements by working with staff; credit will be granted for the solar panels on the roof and the solar array by the pool will be allowed to remain without MDA penalty.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian  
NOES: none

The approval is subject to a 22 day appeal period.

Regarding the deck on the north side of the pool, Commissioner Carey thought the deck should be allowed to remain.

Commissioner Cottrell felt the deck was in place for the safety of people using the pool.

**MOTION SECONDED AND PASSED BY THE FOLLOWING ROLL CALL VOTE:** Motion by Commissioner Carey and seconded by Commissioner Cottrell to allow a grading exception to allow the deck on the north side of the pool to remain as built.

AYES: Commissioners Carey, Clow, Cottrell and Harpootlian  
NOES: Chairman Collins

The approval is subject to a 22 day appeal period.

Commissioner Carey suggested that staff research the possibility of revoking the business license of contractors that have done work in Town without permits.

- 3.2 LANDS OF DUREKAS; 25893 Fremont Road, File #40-07-ZP-SD-GD; A request for a Site Development Permit for a 5,895 square foot new residence. The project includes a 3,732 square foot basement, 860 square foot bunker, a new 600 square foot swimming pool, and a 91 square foot detached building (pool house). CEQA Review: Categorical Exemption per Section exempt per 15303 (a) and (e) (staff-Brian Froelich).

Ex Parte Contacts Policy Disclosure: none

Brian Froelich, Associate Planner, presented the staff report for the new residence with basement and pool. The application was before the Planning Commission because of the proposed basement bunker. The bunker included a four-car garage with a terrace above. The project met all requirements for height, MDA and MFA and setback standards.

Commissioner Harpootlian asked for clarification on the height of the interior of the garage.

Commissioner Cottrell asked for clarification on the height of the retaining walls.

Commissioner Carey felt that the concept of a bunker was exceeded by the size of the four-car garage.

Brad Blackman, applicant, stated that the parking was designed with the wishes of the neighbors considered because the new residence has homes on all sides. The new home will be lower in elevation than the current structure and the pool equipment will be underground. The garage bunker will have a nine-foot ceiling and the retaining walls will meet code.

#### OPENED PUBLIC HEARING

Sandy Humphries, Environmental Design Committee, asked about the outdoor lighting for the cabana area.

#### CLOSED PUBLIC HEARING

Commissioner Cottrell was pleased that the project had met all Town requirements.

Commissioner Carey was initially concerned with the bunker but his questions had been addressed satisfactorily.

Chairman Collins asked if the outdoor lights would be shown on the landscape plan.

Staff replied that the cabana lighting will be examined for conformance with lighting policy when submitted either with the building plans or landscape plans.

Chairman Collins suggested that with the large amount of lawn on the plan perhaps the Water District could give estimates on the water usage for the landscape.

**MOTION SECONDED AND PASSED BY CONSENSUS:** Motion by Commissioner Clow and seconded by Commissioner Carey to approve the site development permit.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian  
NOES: none

The approval is subject to a 22 day appeal period.

Chairman Collins requested a discussion item be placed on the next meeting agenda for Planning Commission regarding requiring separate water meters for landscape use.

4. OLD BUSINESS-none

5. NEW BUSINESS

5.1 Development Area Policy

Nicole Horvitz, Assistant Planner, presented the staff report stating that at the May 24, 2007 City Council meeting, Council directed staff to research and prepare proposed amendments to the Town's Development Area Policy to allow additional development area for properties with a maximum development area of 7,500 feet or less. Semi-permeable materials used in landscape and hardscape improvements do not increase water run-off from the property and could receive a partial credit for development area coverage. The Town's current development policy does not award credit for use of semi-permeable materials on tennis or sport courts, driveways, required parking, above ground decks and turnarounds. The proposed credit would be given to constrained lots (one acre minimum with 7,500 square feet of development area or less) for the use of semi-permeable materials for turn-arounds, required parking and driveways. Staff recommends a credit of 90 percent for artificial turf because of the product's appearance and permeability. Artificial turf installation would be limited to rear and side yards to minimize visibility and allowed to encroach into the setback. Grasscrete pavers and permeable concrete are recommended to receive a 50 percent credit and permeable pavers a 10 percent credit.

Commissioner Cottrell commented on the variety of artificial turf materials available and the different permeability capabilities.

Commissioner Harpootlian had concerns about subsurface drainage if artificial turf was installed over compacted soil. The ground surface should be prepared properly to accept drainage and allow the water to penetrate the soil.

Sandy Humpries, Environmental Design Committee, commented on the strong fumes released on hot days from the Astro-turf (artificial turf) sports field installed at Pinewood School. She requested that if Astro-turf (artificial turf) is allowed in Town, the water runoff be required to be filtered either over a heavily vegetated area or a filtering system because of the turf's toxic

nature. She also felt that pavers should not be installed over a concrete base nor solid concrete pavers allowed.

Chairman Collins noted that some types of artificial turf use small particles of ground up tires applied to the top surface to help the turf blades remain upright. This application is suitable for level areas but unsuitable for slopes as rain will cause the loose particles to be washed off the artificial turf and into the drainage system.

Discussion ensued regarding the advantages and disadvantages of semi-permeable materials and possible development area credit granted to acre lots with a maximum development area of 7,500 feet and possible development credit for all lots installing artificial turf.

Debbie Pedro, Planning Director, summarized the staff recommendation to allow development area credit for semi-permeable materials and revise the development area policy to allow development area credit for driveways, turn-arounds and required parking spaces that utilize grasscrete, permeable concrete or permeable pavers on constrained lots with maximum development area of 7,500 feet or less. For a one acre lot that would support a 5,000 square foot house, only 2,500 square feet of development area would remain for the driveway, pool, patio, etc. The proposed credit would allow up to an extra 1,500 square feet of development area if permeable concrete, permeable pavers or grasscrete was utilized.

**MOTION SECONDED AND PASSED BY THE FOLLOWING ROLL CALL VOTE:** Motion by Commissioner Carey and seconded by Commissioner Cottrell to forward a recommendation to City Council to adopt staff recommendations for development area credit with the exception of reducing the development area credit for permeable concrete to 30 percent.

AYES: Chairman Collins, Commissioners Carey, Clow, Cottrell and Harpootlian  
NOES: none

This decision will be forwarded to be heard at a future City Council meeting.

6. REPORT FROM THE CITY COUNCIL MEETING

- 6.1 Planning Commission Representative for June 14<sup>th</sup>, Commissioner Carey and Harpootlian reported on the LANDS OF ALON Planning Commission decision appeal.
- 6.2 Planning Commission Representative for June 28<sup>th</sup>-Cancelled
- 6.3 Planning Commission Representative for July 12<sup>th</sup>-Chairman Collins
- 6.4 Planning Commission Representative for July 26<sup>th</sup>-Commissioner Clow

7. APPROVAL OF MINUTES

- 7.1 Approval of June 7, 2007 minutes

**PASSED BY CONSENSUS:** To approve the June 7, 2007 minutes.

8. REPORT FROM FAST TRACK MEETING – JUNE 12 AND JUNE 19, 2007

- 8.1 LANDS OF LANDS OF PAO AND CHAO, 14555 Harvard Court. File #18-07-ZP-SD; A request for a Site Development Permit for a 1,600 square foot two story addition (maximum height: 27') and interior remodel. CEQA Review: Categorical Exemption per Section 15303(a). (Staff-Nicole Horvitz). Approved with conditions.
- 8.2 LANDS OF MUNCH, 12758 Leander Drive; File #221-06-ZP-SD-GD; A request for a Site Development Permit for 1,753 two story addition and interior remodel (maximum height 23'). CEQA review: Categorical Exemption per Section per Section 15303(a). (Staff-Nicole Horvitz). Approved with conditions.
- 8.3 LANDS OF LEGATES, 11308 Magdalena Road; File #20-07-ZP-SD; A request for a Site Development Permit for a new 5,682 square foot single story residence (maximum height 25'4"). CEQA review: Categorical Exemption per Section 15303(a). (Staff-Nicole Horvitz). Approved with conditions.
- 8.4 LANDS OF COVELL, 26940 Orchard Hill Lane; File #46-07-ZP-SD-GD; A request for a Site Development Permit for a new 5,012 square foot two story residence with a 1,676 square foot basement, 450 square foot pool, and 135 square foot detached entertainment room (maximum height 25') and the removal of a 15" heritage oak tree to be replaced with two (2) 48" box oaks on the property. CEQA review: Categorical Exemption per Section 15303(a) (Staff-Nicole Horvitz). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING –JUNE 26, 2007

- 9.1 LANDS OF LANDS OF PADMANABHAN, 13114 Maple Leaf Court; File #61-07-ZP-SD; A request for a Site Development Permit for a landscape screening plan. CEQA Review: Categorical Exemption per 15304 (b). (staff-Nicole Horvitz). Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 9:42 p.m.

Respectfully submitted,

Victoria Ortland  
Planning Secretary